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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,699	12/07/2001	T. Anthony Don Michael	DON MICHAEL=27	7636

1444 7590 09/13/2005

BROWDY AND NEIMARK, P.L.L.C.  
624 NINTH STREET, NW  
SUITE 300  
WASHINGTON, DC 20001-5303

EXAMINER
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HO, UYEN T

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/005,699

Applicant(s)

DON MICHAEL, T. ANTHONY

Examiner

(Jackie) Tan-Uyen T. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004 and 20 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments, see Response, filed 8/16/05, have been fully considered and are persuasive. The previous of action mail on 08/08/05 has been withdrawn.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heuser '900 in view of Imran (5,833,650). Heuser discloses a catheter including a tapered distal end, a guidance lumen (16), an annular bypass flow lumen (46, col. 4, lines 29-56), inlet (47) and outlet openings (48), a first (30) and second (20) flexible membranes/balloons, wherein the second flexible membrane is a blocking balloon and a very compliant (col. 3, lines 12-25), the first flexible membrane including a stent (40) disposed thereon and the first membrane may comprise a compliant balloon. Although Heuser suggests the first flexible membrane/balloon may comprising a high compliant angioplasty balloon, one ordinary skill in the art would recognize that the first balloon is made from a low compliant material for delivering stent but may also be made from the high compliant material as suggested by Heuser. It is also known in the art that balloon for stent delivery being made from low compliant material for anchoring a stent to the wall of a vessel. Therefore, it would have been obvious to one having ordinary skill in

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the art at the time the invention was made to make the stent delivering balloon from low compliant material doing so would amount to mere substitution of one material for another within the same art that would perform equally well in the Heuser's delivering system. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make Heuser's first flexible membrane/balloon from a low compliant material in order to provide a better dilation for expanding and anchoring the stent to the wall of a vessel.

In regarding to a tube as claimed, although Heuser fails to disclose an introducer sheath which surrounds and is movable parallel to the longitudinal axis of the catheter for delivery and deploying the balloon catheter at a treated site as well as for enclosing and removing the embolic material at the treated site, Imran discloses a catheter for use in a similar purpose with Heuser's catheter that have a tubular introducer (16) which surrounds and is movable parallel to the longitudinal axis of the catheter for delivery and deploying the balloon catheter at a treated site as well as for enclosing and removing the embolic material at the treated site aneurysm and the tubular introducer connected to a suction source. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the tubular introducer in view of Imran into Heuser's catheter system in order to guide and delivery the Heuser's balloon catheter to a treated site and effectively remove the embolic material at the treated site.

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2. Applicant's amendment (filed on 7/19/04 and 7/20/05) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

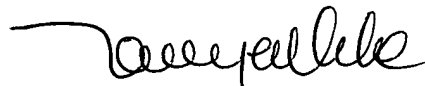
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is 571-272-4696. The examiner can normally be reached on **MULTIFLEX** Mon. to Sat..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANHTUAN NGUYEN can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Jackie Tan-Uyen T. Ho".

(Jackie) Tan-Uyen T. Ho  
Patent Examiner  
Art Unit 3731

September 6, 2005